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Dkt. 2271/66507

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Yuki NAKAMURA, et al.

Serial No. : 10/044,490

Group Art Unit: 2651

Date Filed : January 9, 2002

Examiner:

For : PHASE CHANGE OPTICAL RECORDING MEDIUM

1185 Avenue of the Americas  
New York, N.Y. 10036

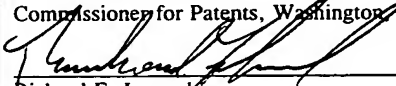
Assistant Commissioner for Patents  
Box Missing Parts  
Washington, D.C. 20231

**RESPONSE TO NOTICE TO FILE MISSING PARTS OF  
APPLICATION-FILING DATE GRANTED  
AND TRANSMISSION OF ASSIGNMENT FOR RECORDATION**

In response to the Notice to File Missing Parts of Application-Filing Date Granted dated March 15, 2002, applicants hereby transmit (i) copy of the PTO Notice, (ii) Declaration and Power of Attorney, and (iii) check for \$130 surcharge for late filing of the Declaration.

The Declaration enclosed herewith contains the Name of Inventors, Title of Invention, Attorney Docket Number, and Filing Date thereby adequately identifying the above-identified application in accordance with 37 C.F.R. 1.63.

I hereby certify that this paper is being deposited this date with the U.S. Postal Service as first class mail addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

  
Richard F. Jaworski  
Reg. No. 33,515

May 15, 2002  
Date

Applicants also transmit for recordation (iv) an Assignment of this invention to Ricoh Company, Ltd., (v) Recordation Form Cover Sheet (Form PTO-1595), and (vi) check for the \$40 recordation fee.

The Commissioner is authorized to charge any additional fees, or to credit any overpayment, to our Deposit Account No. 03-3125.

If a petition for an extension of time is required to make this response timely, this paper should be considered to be such a petition, and the Commissioner is authorized to charge the requisite fees to our Deposit Account No. 03-3125.

Respectfully submitted,



RICHARD F. JAWORSKI, Reg. No. 33,515  
Attorney for Applicants  
Cooper & Dunham LLP  
Tel.: (212) 278-0400

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/044,490	01/09/2002	Yuki Nakamura	2271/66507

CONFIRMATION NO. 9287

FORMALITIES LETTER



\*OC000000007649338\*

Ivan S. Kavrukov  
Cooper & Dunham LLP  
1185 Avenue of the Americas  
New York, NY 10036

Date Mailed: 03/15/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 130.**

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

5-10-2002 5:00PM (01/15/02) 11/15/02

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9/12



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#18  
6/10/04

Dkt. 2271/66507

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Yuki NAKAMURA et al.

Serial No.: 10/044,490

Group Art Unit: 2652

Date Filed: January 9, 2002

Examiner: Peter V. Agustin

For: PHASE CHANGE OPTICAL RECORDING MEDIUM

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

*Paul Teng*  
Paul Teng  
Reg. No. 40,837

*June 2, 2004*  
Date

1185 Avenue of the Americas  
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(212) 278-0400

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JUN 08 2004

Technology Center 2600

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

COMMUNICATION IN RESPONSE TO MAY 20, 2004 OFFICE ACTION

This Communication is submitted in response to the May 20, 2004 Office Action issued by the U.S. Patent and Trademark Office in connection with the above-identified patent application.

The May 20, 2004 Office Action indicates that examination of the application will be restricted by the Patent Office under 35 U.S.C. §121 to one of the following allegedly distinct species:

Group I. Claims 1-18, drawn to phase-change optical recording medium/sputtering target for forming a recording layer consisting of Ag, In, Sb and Te, classified in class 430, subclass 270.13;

Group II. Claims 19, 20, 22, 23, 25, 26, 28, 29, 31, 32, 34, 35, 37, 38, 40 and 41, drawn to a method/apparatus for initializing phase-change optical recording medium, classified in class 369, subclass 100;

Group III. Claim 43, drawn to method for selecting an optimum recording power for read/write/erase operations on a phase-change optical recording medium, classified in class 369, subclass 116;

Group IV. Claims 21, 24, 27, 30, 33, 36, 39 and 42, drawn to medium initialized by the method of claim 19, classified in class 369, subclass 100; and

Group V. Claims 44-48, drawn to medium containing information determined according to the method of claim 43, classified in class 369, subclass 116.

Applicants hereby elect, with traversal, to prosecute the invention of Group I, claims 1-18.

Applicants, however, respectfully request reconsideration of the restriction requirement. Under 35 U.S.C. §121, restriction may be required if two or more independent and distinct inventions are claimed in one application. Under M.P.E.P. §803, the application must be examined on the merits, even though it includes claims to distinct inventions, if the search and examination of an application can be made without serious burden.

The inventions of Groups I-V are not independent. Under MPEP §802.01, "independent" means there is no disclosed relationship between the subjects disclosed. Applicants respectfully note that, for example, the claims of Group IV depend on one or more claims of Group II, and the claims of Group V depend on claim 43 of Group III. In addition, as acknowledged in the Office Action, Groups I and II are related as combination and subcombination, Groups I and III are related as product and process of use, Groups I and IV are related as subcombinations usable together in a single combination, Groups I and V are related as subcombinations usable together in a single combination,

Groups II and III are related as subcombination usable together in a single combination, Groups II and V are related as combination and subcombination, and Groups III and IV are related as product and process of use. Therefore, Applicants respectfully submit that Groups I-V are not independent.

In addition, Applicants submit that it would not be a serious burden if restriction is not require, because a search for prior art for one Group will likely turn up relevant references for one or more other Groups. Therefore, Applicants submit that search and examination of the Groups together would not be a serious burden.

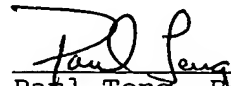
Accordingly, in view of the preceding remarks, Applicants respectfully request that the restriction requirement be withdrawn.

If a petition for an extension of time is required to make this response timely, this paper should be considered to be such a petition, and the Commissioner is authorized to charge the requisite fees to our Deposit Account No. 03-3125.

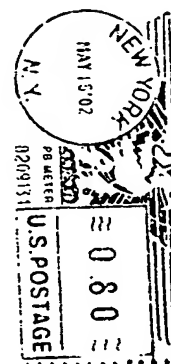
The Office is hereby authorized to charge any additional fees that may be required in connection with this response and to credit any overpayment to our Deposit Account No. 03-3125.

If a telephone interview could advance the prosecution of this application, the Examiner is respectfully requested to call the undersigned attorney.

Respectfully submitted,

  
Paul Teng, Reg. No. 40,837  
Attorney for Applicants  
Cooper & Dunham LLP  
Tel.: (212) 278-0400

**COOPER & DUNHAM LLP**  
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**TO:**

Assistant Commissioner for Patents  
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